

Appl. No. : 10/090,039
Filed : February 27, 2002

The Specification on page 7, lines 15-16 and page 10, lines 25-30, discloses a vial that contains a liquid culture medium that is able to flow out of the vial.

The proposed Claim 21 recites "a nutrient broth in a flowable, liquid state" in combination with an indicator dye. As stated in the Amendment filed August 19, 2002, Barney et al. use a solid medium on which to grow colonies. Growth of bacteria is identified by counting colonies of bacteria and determining their size. Those skilled in the art would not be motivated or suggested to combine a pH indicator with Barney's solid culture medium because there is no reason to provide an additional mechanism to identify the growth of bacteria. In the present invention, using "a nutrient broth in a flowable liquid state," colonies simply cannot be counted because the bacteria would disperse within the liquid.

Accordingly, the Applicants respectfully request the Examiner to reconsider the above-referenced application in view of the proposed claim.

Respectfully submitted,

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